AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

- 1 42. (CANCELED)
- 43. (CURRENTLY AMENDED) A method for preparing a synthetic promoter which comprises the steps of:
- a) comparing the sequence of a template promoter with known nucleic acid sequences;
- b) selecting <u>20 base pair to 100 base pair</u> segments of said known nucleic acid sequences similar to that have between 60% and 100% homology to 20 base pair to <u>100 base pair</u> segments of the template promoter sequence;
- c) aligning the selected segments based on homology with the template promoter to derive placing said 20 base pair to 100 base pair segments in the order in which said segments occur in the template promoter to produce a first synthetic promoter having between about 60% to about 90% homology with at least 15% of its sequence different from that of the template promoter; and
 - d) constructing a first synthetic promoter; and
 - e) d) testing the first synthetic promoter for activity.
- 44. (CURRENTLY AMENDED) The method of claim 43, which further comprises the steps of:
- f) e) modifying the sequence of the first synthetic promoter which does not have maintained or improved activity compared to the template promoter to produce a second synthetic promoter; and
 - g) <u>f)</u> testing the synthetic promoter for activity.
- 45. (CURRENTLY AMENDED) The method of claim 44, wherein steps (f) and (g) (e) and (f) are repeated one or more times until a synthetic promoter is produced which has maintained or improved activity compared to the template promoter.

46 - 48. (CANCELED)

- 49. (NEW) The method of claim 43 wherein said known nucleic acid sequences are selected from a GenBank database or an equivalent database.
- 50. (NEW) The method of claim 43 wherein said first synthetic promoter has between 15% and 20% of its sequence different from that of the template promoter.
- 51. (NEW) The method of claim 43 wherein said first synthetic promoter has between 20% and 25% of its sequence different from that of the template promoter.
- 52. (NEW) The method of claim 43 wherein said first synthetic promoter has between 25% and 30% of its sequence different from that of the template promoter.